

**Town of Middletown
Planning Department**

350 East Main Rd., Middletown RI 02842 (401) 849-4027

PL ANNING BOARD MINUTES

April 12, 2006

Board members present:

Art Weber, Vice Chairman Ron Wolanski, Town Planner

Jan Eckhart, Secretary Vernon Gorton, Town Solicitor

Richard Adams

Audrey Rearick

John Tucker

Colleen Aull

Member absent:

David Lawrence

The meeting was called to order at 6:30 pm.

Minutes

The minutes of the regular meeting of March 8, 2006 were reviewed.

Motion by Mr. Tucker seconded by Mr. Adams to approve the

minutes. Vote: 6-0-0.

Sitting as Planning Board

Old Business

1. Public Hearing - George P. Lewis, Proposed 5-lot minor subdivision & extension of Trout Dr., Plat 125, Lot 935, Preliminary Plan

Mr. Wolanski stated that he had received a letter from the applicant's attorney requesting a continuance of this matter to the May Planning Board meeting.

Motion by Mr. Eckhart, seconded by Ms. Rearick, to continue the public hearing to the May 10, 2006 regular Planning Board meeting.

Vote: 6-0-0

2. Peter Gallipeau, Island Drive subdivision, Request for release of subdivision maintenance bonds.

Mr. Adams recused himself from the discussion.

Mr. Wolanski stated that the Town Engineer is recommending in favor of the release of the bond subject the developer re-setting a manhole located within an easement as previously discussed. It appears that the concern regarding the provisions of the drainage easement have been resolved.

Mr. Weber ask the Town Solicitor for his opinion on the request.

Mr. Gorton stated that once the developer has satisfied issues regarding the condition of the improvements, he is entitled to release of the maintenance bond.

Motion by Mr. Eckhart, seconded by Ms. Rearick, to grant conditional

approval of the maintenance bond release for Island Drive, subject to certification by the Town Engineer that all outstanding issue regarding the manhole have been resolved. Vote: 5-0-0

3. Karmik LLC, Request for conceptual review of proposed 6-lot major subdivision, Prospect Ave. & Aquidneck Ave. Plat 120, Lot 46.

Attorney Robert Silva, representing the applicant, described the proposal to divide the subject property into six lots, three of which would have less than the required frontage. All lots would contain the minimum required lot area. The applicant would be required to secure relief from the Zoning Board of Review to allow for the creation of the non-conforming lots. A result of the plan would be to eliminate the motel and mobile home park which are non-conforming uses. Under the provisions of a legal ruling, the property owner would be allowed to place up to 26 mobile homes on the subject property.

Mr. Weber, stated that he is not in favor of creating non-conforming lots and asked if the number of lots could be reduced to allow for conforming lots.

Mr. Silva stated that his client would not receive the same financial benefit if the number of lots were reduced.

Mr. Tucker noted that the mobile home park provides a more affordable housing alternative. He stated that he is concerned with the possible president setting impact the approval of the nonconforming lots would have.

Mr. Silva noted that there are R-10 zoning districts abutting the subject property.

Mr. Eckhart asked about utilities.

Mr. Silva stated that the properties would be served by public sewer and private wells.

There was discussion of the potential routing of sewer lines.

Ms. Aull stated that she agreed that the plan would result in an aesthetic improvement to the property, but she is concerned about the non-conforming lots.

Mr. Adams stated that he also is concerned with the creation of non-conforming lots and the potential for setting a precedent.

Mr. Silva stated that his client may consider petitioning the Town Council to rezone the property to R-10, which would be consistent with adjacent properties and the Comprehensive Plan.

After some additional discussion the consensus of the board was that they could not support the plan as presented.

4. Segerson, Greene Lane, Proposed 5-lot subdivision, Plat 105, Lots 4B & 4C, Final Plan – Request for 6-month extension of subdivision approval

Attorney Bob Silva, representing the applicant, requested an additional 6-month extension of the subdivision approval.

Motion by Mr. Tucker, seconded by Ms. Aull, grant a 6-month extension of the subdivision approval. Vote: 6-0-0.

5. Love Realty Trust II (Residences at Forest Commons) – Review of site plans for a 60 unit senior independent living facility – Forest Ave. Plat 113, Lots 3, 3A, 3B, & 5.

Attorney Patrick Hayes, Jr., representing the applicant, described the revised engineering plans which had been reviewed at a Planning Board subcommittee meeting.

Mr. Wolanski stated that he had received verbal confirmation from the Town Engineer that the drainage plans and calculations are acceptable. There are some minor items that still need to be addressed on the plans, including a sign-off from the fire department on the road profile for the emergency access road.

Mr. Tucker asked about the existing stonewalls on the property.

Lynn Small, of Northeast Engineers and Consultants, stated that some will be retained or rebuilt if they must be relocated. There will be no net loss of stonewalls on the property.

Manny Mello, a Middletown resident, stated that the plan had not been provided to the Roads & Utilities Advisory Committee. He expressed concern for the impact on the Forest Ave. sewer line.

Mr. Weber stated that the sewer for the development has been redesigned to connect to Buck Rd.

Roberta Duffy of Forest Ave. asked about access to the emergency access road.

Ms. Small confirmed that there will be gates at both ends of the road to restrict public use.

Motion by Mr. Tucker, seconded by Ms. Rearick, to approve the revised plans for the development subject to all conditions of the Special Use Permit issued by the Zoning Board of Review and the following additional conditions:

1. The proposed administrative subdivision which would result in the merger of the subject lots shall be approved and recorded in the land evidence records prior to the issuance of building permits.

2. A sewerage holding tank(s) with capacity equal to the design

24-hour sewer flow for the development shall be designed and installed, subject to the approval of the Middletown Director of Public Works.

3. The design of the proposed emergency access road, include profile and cross section, shall be approved by the Town Engineer and Fire Chief prior to the issuance of building permits.

Vote: 6-0-0

6. Request of the Zoning Board of Review for an advisory recommendation on an application for Special Use Permit under Article 14, Motels and Hotels, for a proposed development by Island Hotel Group, LLC. Proposal to demolish a portion of an existing hotel, and construct a new 97-room hotel. Plat 108, Lots 97G, 131, & 193, 317-351 West Main Rd.

Attorney Robert Silva, representing the applicant, described the outcome of the subcommittee site visits.

John Caito, the applicant's engineer, described the changes made to the plans as a result of the discussions, including the attempt to save the Beech Trees along High Street and the need for a reduction in the number of loading spaces.

Mr. Adams asked about the 5' height of the Leland Cypress trees.

Mr. Caito stated that that size tree would have a better chance of surviving than a larger tree. The trees can potentially grow more than 2 feet per year.

There was a question regarding the spacing of the trees.

Mr. Caito stated that the spacing would be added to the plan.

Motion by Mr. Tucker, seconded by Ms. Rearick, to forward a positive

recommendation to the Zoning Board of Review on the request for a Special Use Permit, subject to the following conditions:

- 1. Approval is subject to the approval of the necessary administrative subdivision application proposed to alter lot boundaries of the subject properties.**
- 2. Prior to the issuance of building permits, all utilities connections, including water and sewer must be approved by the applicable agencies. A 24-hour sewage holding must be installed, with the design to be approved by the Public Works Director. Certification from the City of Newport that public water is available to serve the proposed development must be provided.**
- 3. All utilities serving the proposed development must be installed under ground.**
- 4. Any HVAC and other equipment to be located on the roof of the proposed building must be screened from public view.**
- 5. All site work must be done in strict compliance with all RIDEM requirements with regard to mitigation of contaminated soil on the subject property. Measures to control blowing dust and soil shall be employed at all times during project construction.**
- 6. All signage shall comply with the requirements of Articles 12 & 24 of the Zoning Ordinance regarding dimensions, materials and lighting.**
- 7. Comments provided by the Town's consulting engineer (Pare Engineering) dated April 7, 2006 and April 11, 2006 (attached), shall be satisfactorily addressed prior to the issuance of permits.**

Vote: 6-0-0

The Planning Board adjourned and reconvened as the Town Center Review Board

7. Public Hearing (continued) – Island Hotel Group, LLC, Proposal to demolish a portion of an existing hotel, and construct a new 97-room hotel. Plat 108, Lots 97G, 131, & 193, 317-351 West Main Rd.

Attorney Bob Silva, representing the applicant requested that the requirement to post a 20% construction bond be waived.

The Board agreed to waive the bond requirement given the nature of the project, including the lack of any public improvements.

There was discussion of the proposed signage. The applicant requested that the signage be removed from the application. Signage will be submitted at a later date for approval.

The hearing was opened to the public. There was no one wishing to speak. The public hearing was closed.

Motion by Mr. Tucker, seconded by Ms. Aull, to approve the application under the provisions of the Town Center Overlay District, subject to waivers granted for the building and parking design, and the following conditions:

1. Approval of the Town Center Overlay District application is subject to the granting of any required zoning relief by the Zoning Board of Review. Final Town Center District approval must be sought following the granting of any required relief.

2. Approval of the Town Center Overlay District application is subject to the approval of the necessary administrative subdivision application proposed to alter lot boundaries of the subject properties.

3. Prior to the issuance of building permits, all utilities connections,

including water and sewer must be approved by the applicable agencies. A 24-hour sewage holding must be installed, with the design to be approved by the Public works director. Certification from the City of Newport that public water is available to serve the proposed development must be provided.

4. All utilities serving the proposed development must be installed under ground.

5. Any HVAC and other equipment to be located on the roof of the proposed building must be screened from public view.

6. All site work must be done in strict compliance with all RIDEM requirements with regard to mitigation of contaminated soil on the subject property. Measures to control blowing dust and soil shall be employed at all times during project construction.

7. This approval does not apply to proposed signage, which must be presented for review and approval under the provisions of Article 24, Town Center Overlay District, prior to permitting and installation.

8. Comments provided by the Town's consulting engineer (Pare Engineering) dated April 7, 2006 and April 11, 2006 (attached), shall be satisfactorily addressed prior to the issuance of permits.

Vote: 6-0-0

The Town Center Review Board adjourned and reconvened as the Planning Board.

8. Request of the Zoning Board of Review for an advisory recommendation on proposed development within Zone 2 of the Watershed Protection District – Yvonne Blackman, Proposal to construct an addition to an existing commercial building used as a

carwash. Plat 112, Lot 3A, 1379 West Main Rd

Mr. Weber stated that the proposal is similar to plan previously approved by the Town.

Mr. Wolanski suggested that a condition regarding relocation of the existing catch basin be added as was discussed for the previous applicant.

Motion by Mr. Adams, seconded by Mr. Tucker, to forward a positive recommendation to the Zoning Board of Review, subject to the following conditions:

1. The applicant must ensure that all wash water from the existing facility and the proposed expansion is directed to the sanitary sewer system, and is not allowed to enter the storm water drainage system for the property.

2. The applicant must ensure that the existing parking lot catch basin in the area of the building addition is properly removed and the connection to the sewer system is capped, subject to the approval of the Public Works Director. Site storm runoff shall be routed through the existing storm water detention system.

Vote: 6-0-0.

9. Discussion of zoning designation of town-owned properties, and possible recommendation for zoning changes to the Town Council.

The Board agreed with the recommendation of the subcommittee as presented in a memo from assistant planner Sam Hogan with regard to the zoning of town-owned properties.

Motion by Mr. Tucker, seconded by Ms. Aull, to forward the proposal to rezone certain town-owned properties to the Town Council for

consideration. Vote 6-0-0.

10. James Scribner, Chases Lane, Proposed 2-lot subdivision, Plat 106, Lot 6A, Final Plan

Attorney David Martland, representing the applicant, stated that the required relief had been granted by the Zoning Board of Review, including the variance need to allow the existing garage to remain.

Motion by Mr. Tucker, seconded by Ms. Rearick, to grant final approval of the subdivision plan, subject to the following conditions:

1. Easement documents for all proposed easements must be provided for review approved by the Planning Board and Town Solicitor prior to recording.

2. Prior to final approval the application fee for final plan review in the amount of \$160 must be provided.

Vote: 6-0-0.

11. Request of the Zoning Board of Review for an advisory recommendation on proposed development within Zone 1 of the Watershed Protection District - Tim Horton's (New England) Inc., Proposal to demolish existing commercial building, and construct new commercial building, including a drive-up window, for use as a restaurant. Plat 107SE, Lot 401. 159 East Main Rd.

The applicant's attorney, Amy Oberg, described the revised plans, including the elimination of the curbcut on East Mian Road, and the addition of more water quality depressions.

Mr. Wolanski stated that the Town Engineer had reviewed the plans. The proposed drainage will result in an improvement over the existing situation.

Motion by Mr. Tucker, seconded by Ms. Rearick, to forward a positive recommendation to the Zoning Board of Review. Vote: 6-0-0.

Sitting as the Town Center Review Board

12. Public Hearing (continued)– Tim Horton's (New England) Inc., Proposal to demolish existing commercial building, and construct new commercial building, including a drive-up window, for use as a restaurant. Plat 107SE, Lot 401. 159 East Main Rd.

There was discussion regarding the limited options for locating the building closer to East Main. The Board express support for the desing of the building.

The applicant's attorney, Amy Oberg, discussed the signage plan.

The Board expressed concern with the internally lit signs.

The applicant Mr. Fielder, requested consideration of the internally lit signs.

Mr. Wolanski stated that he will confirm with the Zoning Official the status of the internally illuminated directional signs.

The Board requested that the wall and pole signs be altered to incorporate goose-neck lighting, which would be more consistent with the building design.

The applicant requested that the signs be pulled from the application for further consideration a later time.

Motion by Mr. Adams, seconded by Mr. Tucker, to grant approval of the proposal subject to the waivers granted for building placement and the following conditions:

1. Required relief must be granted by the Zoning Board of Review

prior to final approval.

2. This approval does not apply to proposed signage, which must be presented for review and approval under the provisions of Article 24, Town Center Overlay District, prior to installation.

3. Prior to final approval the applicant shall address concerns of the Town's consulting engineer, Pare Engineering, as contained in a letter dated April 11, 2006, (attached).

4. Prior to final approval the applicant shall provide confirmation from the Finance Director that all review fees have been paid, including those required for application review by the Town's consulting engineer, Pare Engineering.

Vote: 6-0-0

13. Marshall Properties, Inc., Proposal to construct a commercial building for use as a restaurant, including a drive-up window. Plat 107SE, Lots 13 & 14, 619 West Main Rd.

Attorney Bob Silva, representing the applicant, stated that the plan had been granted the required relief by the Zoning Board of Review.

Motion by Mr. Adams, seconded by Ms. Rearick, to grant final approval of the plans subject to the following conditions:

1. The Town Engineer and DPW Director must review and approve revised drainage plan and calculations prior to issuance of permits. Any necessary approvals from the RI Dept. of Transportation, and any other state and local regulatory approvals must be secured prior the issuance of permits.

2. Prior to the issuance of permits the applicant must present for approval and record an administrative subdivision plan which will

result in the merger of the subject lots.

Vote: 6-0-0

13. Middletown Taco Inc. (Taco Bell), Proposal to replace existing wall mounted sign, awning and canopy on an existing commercial building. Plat 107SE, Lot 15, 641 West Main Rd.

Bob Paige of Beaumont Signs represented the applicant. He presented a revised design for the wall sign which included a carved sign to be lit by goose-neck style lighting.

Motion by Mr. Tucker, seconded by Mr. Eckhart, to approve the proposed wall sign subject the waiver granted to allow for a wall sign exceeding 2-feet in height. Vote 6-0-0.

Motion by Mr. Tucker, seconded by Ms. Rearick, to adjourn. Vote: 6-0-0

The meeting adjourned at 8:45pm